THE RAILWAY POLICY OF CANADA, 1849 TO 1867. I.[1]

I. THE RAILWAY POLICY OF HINCKS.

THE earlier railway construction and projection in Canada had, owing to financial disturbances, almost ceased in 1847. Of the meager list of enactments passed in 1848 none were concerned with railways. In the years which had elapsed since the chartering of the Champlain and St. Lawrence only fifty-four miles of railway had been constructed. As early as 1830 it had been stated that railroad transportation would prove cheaper than canal transportation, and that unless railroads were built the American railroads would take the traffic which it had been expected would be taken to Quebec by the canal system.[2] By 1849 it had been impressed on the people of Canada that if they were to obtain a share in the western transit trade a more efficient system of transportation must be obtained. The canals, which had been constructed at a cost of upwards of £5,000,000 were now, in so far as the obtaining of a share in the traffic from the western states was concerned, pushed aside by the railroads of the United States.[3] At the same time it appeared as if the Canadian trade itself would be deflected to the American roads.

It was now decided that a concerted endeavor to facilitate and develop railway construction was incumbent on the government. Upon Francis Hincks, who held a position analogous to that of finance minister, devolved the task of outlining the new policy.[4] The main features of his policy were the enactment of the Guarantee Act, the creation of the Municipal Loan Fund, and the incorporation of the Grand Trunk Railway.

[1] Cf. an article of mine in this JOURNAL for June 1898 on "The Early Railroad Policy of Canada."

[2] Statement of a correspondent in *Neilson's Quebec Gazette*, quoted in the Montreal *Gazette*, January 21, 1830.

[3] Cf. GALT, *Canada, 1849 to 1859*, etc. Cf. also an interesting article in the *Economist* for October 6, 1860, "Railway Enterprise in Canada."

[4] HINCKS, *Reminiscences of my Public Life*, p. 201.

It is, then, in the year 1849 that the beginnings of a systematic railway policy appear. The first step was the passing of legislation to define the general services the government might require from railways which contained in their charters provisions stating that they were subject to any general railway law that might be passed. These were declared to be the liability to perform certain services of transport in respect to mails, troops, police, etc., and to place the electric telegraphs at the service of the government on terms agreed on, or failing such agreement on terms determined by the governor-in-council.[1]

The most important act passed in this year was, however, the Guarantee Act.[2] Experience had shown that, while in the older lands, the expectation of profit had been sufficient to attract capital in plenty it had been otherwise in a newer land like Canada. In Canada the scattered, sparsely settled districts were separated by wide expanses of untilled and unsettled lands. The initial difficulties of railway construction under such conditions deterred investment; the uncertainty of a return on investment acted as a further deterrent. But the development of the country was conditioned by the existing ways of communication; and if settlement was to be pushed into the well-nigh inaccessible districts the aid of the railway had to be invoked. The preamble of the Guarantee Act stated that government aid was necessary. It was not intended that aid should be extended to purely speculative enterprises, for it was stated that aid should be given only to those enterprises which were under way, and to enable them to complete their work. The detailed provisions of the act may now be summarized: it was declared that the best way to aid railways was by the extension of a government guarantee; interest might be guaranteed, at a rate not exceeding 6 per cent. on one half the bonded debt of railways which were over seventy-five miles in length; no such aid was to be extended until one half of the road had been completed; the repayment of the interest guaranteed was to be secured by a first charge on the profits of the road, next to the lien of the bondholders; so

[1] *Statutes of Canada*, 1849, chap. 28. [2] *Ibid.*, chap. 29.

long as any part of the principal, on which interest had been guaranteed, remained unpaid no dividend could be paid to the stockholders until a sum equal to 3 per cent. of the amount unpaid should be set aside from the surplus earnings of the road to redeem the bonds on which the guarantee had been given; it was declared that roads receiving assistance under this act were to be subject to such further legislation as might be passed to make the act effective.

The imperial authorities had at different times drawn the attention of the colony to the advisability of passing a general railway law; committees of the legislature had also recommended that an enactment of this kind should be passed. It was not, however, until 1851 that the defect in this regard was remedied.[1] Companies incorporated subsequent to 1851 were to be subject to the provisions of the general railway law unless specifically exempted in their charters. A company desiring to obtain a charter to construct a railway was required to deposit in the provincial secretary's office a copy of the stock-book showing the names of the subscribers, and showing at least one fourth of the stock subscribed; at the same time the company was required to deposit the certificate of the cashier of some chartered Canadian bank of the deposit therein of an amount equal to 10 per cent. of the amount subscribed.[2] The provincial secretary was to have authority to control the withdrawal of this deposit for such a length of time as he thought proper. His control over it ceased six months after the road had actually been begun. The general powers incident to a railway charter were declared to be: to receive grants of land, purchase lands, occupy beaches, carry the railway across the lands of a corporation, carry the railway across or along streams, complete the railway with one or more tracks, to erect necessary buildings, to make branch railways, if required and provided by the special acts; to exercise all other powers necessary to a railway, to

[1] *Statutes of Canada*, 1851, chap. 51.

[2] This is required by the fifth and sixth sections of the act. These were repealed by chap. 2 of the *Statutes of 1852*.

convey goods and persons on the railway, to borrow money at a rate not exceeding 8 per cent., to enter upon Her Majesty's land without previous license, to make surveys, to fell or remove trees to the distance of six rods from the railway, to make crossings over other railways or to unite with them. When disputes arose concerning the value of lands required by a railway the matter was to be settled by arbitration. The tolls and fares were to be determined in by-laws passed by the directors of the railway, but these by-laws were not operative until they had first been approved by the governor-in-council; there was also a further requirement that there had to be two weekly publications in the Canada *Gazette*, not only of the by-laws, but also of the order-in-council approving them. The tolls and rates might be raised or lowered by the railway, but preferences were forbidden. The table of tolls and rates had to be posted up in a public place. The rates of the railway were subject to revision at any time by the governor-in-council. To the legislature was reserved the right to reduce the tolls and fares, but not without the consent of the railway , or so as to produce a dividend less than 15 per cent. The stock of the company might be increased by a two thirds vote of the shareholders. Municipalities might subscribe for stock in or lend money to railway companies. The head of a municipality subscribing £5000 was to be *ex officio* a director of the railway. The mail, troops, police, etc., were to be carried on terms agreed upon. [1]

An important question which obtained attention at this time was concerned with the adoption of a standard gauge. When the earlier charters were granted the question of the gauge to be adopted did not attract any careful attention. The Montreal and Champlain had, it is true, a gauge of 5 feet 6 inches; but there is no evidence that the legislators had before them the consideration of a gauge which would be satisfactory when an ordered railway system was in operation. Major Robinson, in

[1] Chap. 169 of the *Statutes of 1853* amended this act by giving incorporated railway companies the right to construct branch railways not more than six miles in length when approved by a by-law of the municipality.

his report on the Halifax and Quebec Railway, had favored a 5-feet-6-inch gauge.[1] On the other hand the English government had recommended, in 1847, that in determining on a gauge Canada should not overlook that most favored in the United States.[2] When the Canadian railway system began to extend, the question of the gauge had to be faced. The charter incorporating the St. Lawrence and Atlantic Railway had been so amended as to require the company to construct the road with a gauge of 4 feet 8½ inches, unless otherwise determined by the governor in council. The company petitioned against this on the ground that they had already laid down a considerable portion of track on a 5 feet 6-inch gauge; and that the change would entail a considerable expense. They were permitted on this account to retain the broad gauge.[3] The idea of having a 5 feet-6-inch gauge on this line is understood to have originated at Portland, Maine. The object of this was to make Portland the terminus of the Canadian lines, and prevent the trade going to Boston.[4] It was asserted, at the time, that this gauge would permit a much heavier traffic to be moved than if the narrower gauge of 4 feet 8½ inches had been adopted.[5] The precedent set by the St. Lawrence and Atlantic had considerable bearing on the settlement of the standard gauge. The practice with reference to the gauge varied in the United States at the time. In the part, however, in which the greatest railway development had been attained, and which had the closest commercial relations with Canada the gauge was 4 feet 8½

[1] Report, p. 18.

[2] This is contained in a despatch from Earl Grey to the governor general. See *Sessional Papers of Canada*, 1851, appendix D. D. D.

[3] *Sessional Papers of Canada*, 1851, appendix D. D. D. See in this connection *Report on the Gauge for the St. Lawrence and Atlantic Railroad*, by A. C. MORTON, C. E., Montreal, 1847.

[4] *Pennington Railways and Other Ways*, pp. 83, 84. Cf. also a letter by the same writer in the Toronto *Globe* for January 21, 1881. He was for years in the service of the Grand Trunk.

[5] A. T. GALT, Letter to the chairman of the North American Colonial Association on the St. Lawrence and Atlantic Railroad, p. 22.

inches.[1] The matter was not calmly discussed from the standpoint of commercial interest. In the positions taken the legislators appeared to be oblivious of the advantages obtained from the Canadian roads forming links in a chain of communication between the western and the eastern states. When the Great Western was in course of construction aid had been obtained from American capitalists on condition that the gauge of the line should be the same as that of the western states. The government of Canada at once annulled this arrangement.[2] In consequence of this the Great Western, a large part of whose business was concerned with the transportation of American produce, was forced to have recourse to the cumbrous expedient of a third rail.[3] Some advanced as an argument against the adoption of the American gauge the allegation that the American roads were flimsily built;[4] the pertinency of this argument is somewhat difficult to understand. Almost the only possible argument that could be advanced in favor of the broader gauge was that it would be of advantage in time of war to have a gauge which would not be uniform with that adopted in the States. In time of peace it would impede the movement of through freight. From an early date Canadian roads had looked to a participation in through American freight. In addition the broader gauge made the road bed construction more costly;[5] it increased the dead weight and gave greater resistance at curves. Evidence in connection with the matter was submitted to the Standing Committee on Railways and Telegraphs in 1851. Some recommended the broader gauge on the ground

[1] Interesting details with reference to the 4 feet 8½-inch will be found in *Our Railways*, by JOSEPH PARSLOE, p. 84; PENNINGTON, *op. cit.*, pp. 83, 84; the *Annual Register*, for 1846, pp. 436–452; *Roads and Rails* by W. BRIDGES ADAMS, p. 165.

[2] HINCKS, *op. cit.*, p. 220.

[3] A plea for the third rail as a means to obviate the evils resulting from diversity of gauge will be found in *Railways: The Gauge Question*, by WILLIAM HARDING, London, 1846.

[4] *Canada Sessional Papers, 1851*, appendix D. D. D.

[5] Cf. WELLINGTON, *The Economic Theory of Railroad Location*, p. 752.

that it would be more economical.[1] The Great Western objected to it because it would impede their through freight.[2] Mr. Keefer, whose professional standing gave his opinion great weight, said that while, if Canada stood alone, the broad gauge might be adopted, the relations the Canadian roads bore to the American roads would make it advantageous to conform to the American gauge.[3] Notwithstanding these considerations the committee reported in favor of the 5 feet 6-inch gauge on the ground that it was best adapted to the protection of Canadian interests.[4] Accordingly this was made the standard gauge. The effect of this may be studied in connection with the through business of the Grand Trunk. Traffic had to be transferred from one set of cars to another at the American frontier. For the most part this had to be done by manual labor. In some cases the axles were made adjustable to the two gauges; in other cases the car bodies had to be lifted. Much extra cost and delay was thereby entailed.[5]

Probably the most important of the motives which led to Canada's co-operation in the Halifax and Quebec project was the hope that the construction of a line of communication with the maritime provinces would lead to the construction of the proposed line from its eastern terminus to the western boundary of Canada. In 1851, when it was supposed that the outcome of the negotiations would be the construction of an inter-colonial railway assisted by imperial aid, the legislature of Canada passed an act to make provision for a main line of railway throughout the province.[6] In the same year charters were granted to the

[1] *Sessional Papers of Canada, 1852*, appendix U. U. Answer of Mr. John Young, vice president of the St. Lawrence and Atlantic, to question 43.

[2] *Ibid.*, Answer to questions 43 and 51. [3] *Ibid.*

[4] *Journals of the Legislative Assembly of Canada*, 1851, p. 210.

[5] Appendix to the report of the Grand Trunk for the half year ending December 31, 1894, p. 16. Statement of Sir Joseph Hickson.

[6] *Statutes of Canada*, 1851, chap. 73. When the propositions embodied in the act were being considered by the Standing Committee on Railroads and Telegraph Lines the librarian was instructed to obtain a copy of a work, published by Messrs. Leitch and Brown of Boston entitled *Railroad Laws and Charters of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut.* See p. 9 of the report.

Montreal and Kingston,[1] the Kingston and Toronto[2] and the Toronto and Guelph;[3] railways which if constructed would have afforded an alternative route for a portion of the distance. It was hoped that the imperial credit would be extended so as to permit the construction of a road from Quebec to Hamilton. Accordingly an act was passed to permit the raising of a loan of £4,000,000 currency for this purpose.[4] The act incorporating the main trunk line stated that the road was for the interest of the province and that therefore it was wise to guarantee that the public debt should not be increased except for certain specified purposes.[5] A board of railway commissioners, composed of the receiver general, the inspector general, the postmaster general, the commissioner and the assistant commissioner of public works, was appointed to oversee this project. The commissioner of public works was empowered to enter into negotiations with the Montreal and Lachine and the St. Lawrence and Atlantic with a view to obtaining the whole or part of these railways so that they might be incorporated in the proposed enterprise.

The propositions contained in the bill to incorporate the main trunk line were attacked both in Parliament and in the press. In the discussion on the report of the committee appointed to look into the merits of the main trunk line scheme—the report was presented August 13, 1851—Mr. Seymour considered that before embarking on such a project it should first be submitted to the electors for their approval.[6] Mr. Merritt considered that the interest of the public would best be served if the work were committed to the care of the municipalities. He stated that the construction and management of railways by governments "is inexpedient; and has invariably resulted either in public loss or in a total failure to produce the anticipated benefits." In proof of his contentions he referred to the contemporary experiences of Michigan.[7] The newspapers

[1] *Ibid.*, chap. 143. [2] *Ibid.*, chap. 146. [3] *Ibid.*, chap. 148. [4] *Ibid.*, chap. 75.

[5] *Vide post* in connection with the Guarantee Act.

[6] *Sessional Papers of Canada*, 1851, pp. 274–278. [7] *Ibid.*

were willing that the proposed Halifax and Quebec Railway should be undertaken if they could at the same time be confident that the road from Quebec westward would be constructed. Objection was taken to constructing the portion of the road running through the wilderness portion of Lower Canada at the joint expense of the provinces while, in all probability, the western portion of the road would have to be constructed at the expense of Upper Canada alone. It was also alleged that the project was simply a device to placate the French vote.[1]

Although the act was passed by a substantial majority the difficulties connected with the negotiations which were concerned with the project for an intercolonial railway hindered for the time being the construction of the projected main trunk line.

The year 1852 saw a distinct advance in matters of railway policy. It was in this year that the Grand Trunk was chartered. The merits of a system of intra-provincial communication had long been discussed. When the project for the construction of the Champlain and St. Lawrence was under consideration a line from Montreal to Goderich was suggested.[2] The negotiations connected with the Halifax and Quebec again brought the project to the front. In 1852 Messrs. Hincks and Chandler were sent to England to press the colonial views, with reference to the intercolonial project, on the attention of the imperial government. In these negotiations Hincks did not have an altogether free hand. What Canada demanded most was the construction of a trunk line running throughout the entire length of the province; its interest in the more imperial scheme had been conditioned by a belief that thereby the construction of the trunk line would be furthered. It has been suggested that Hincks was not in earnest in the negotiations in England, and that he was only too ready to withdraw from the advocacy of the scheme when an

[1] Toronto *Globe*, August 28, 1851. See also extracts from the press of the time contained in a memorandum addressed by Mr. H. B. Willson to Sir John Pakington. This will be found in the *Sessional Papers of Canada*, for 1852–3, appendix Z.

[2] See a letter in the Montreal *Gazette* for December 13, 1830, by Mr. Peter Fleming, C.E.

opportunity presented itself.[1] In justice to Hincks it must be remembered that the province was clamoring for internal development; at the same time much objection was being shown to incurring expense in connection with the construction of a line of railway through the desolate portions of the province of Canada while the more advanced portions of the province were practically destitute of railway facilities. The lack of harmony with reference to routes placed an apparently insuperable obstacle in the way of the practical fulfillment of the Halifax and Quebec project.

When Howe had visited England his speeches and addresses had attracted the attention of Peto, Jackson & Brassey, the famous English firm of railway contractors, to the opportunities of the colonies as a field for investment. At the time when Hincks was in London this firm was entering into negotiations for the construction of the Quebec and Richmond Railway.[2] When he found that his negotiations in connection with the wider scheme were checked by failure, he turned to this firm of contractors to see if any means could be found whereby a system of internal communication adequate to the needs of Canada might be devised.[3] In the matter of railway policy, Hincks, although he had more co-ordinated ideas than the other men of the time, was only feeling his way. The charter passed in 1851 to provide for a main trunk line had spoken of construction by companies as a last resort. In a speech delivered at Halifax, in the course of the Halifax and Quebec negotiations, he had declared it as his settled conviction that "to make railroads by companies in this country was both impossible and impolitic."[4] Now he entered into negotiations with a company for the construction of the road. At a later time he justified his change of front by saying that he had reason to believe that an agreement

[1] See POPE, *Life of Macdonald*, vol. i. pp. 105–109; HOWE, *Speeches and Letters*, vol. ii. p. 441.

[2] Chartered in 1851.

[3] Letter of Thomas Brassey to Hon. John Ross, president of the Grand Trunk Toronto, 1856, pp. 1, 2.

HINCKS, *op. cit.*, p. 220.

with a company would inspire confidence and secure the support of other capitalists.[1] In the discussions which took place between Hincks and the English contracting firm it was suggested that one tenth of the capital should be raised in Canada by private, or by municipal, or failing both, by government investment in the stock. The company undertook to obtain the whole of the capital in England;[2] this was subject to the qualification that toward the estimated cost of the section from Toronto to Montreal, which it was thought would cost £3,000,000, a provincial loan to the amount of £1,965,000 was to be given.[3]

The general legislation under which the Grand Trunk Railway was chartered is contained in three acts.[4] The first of these provides for the construction of a railway from Toronto to Montreal. The capital of the company is stated at £3,000,000; provision is made for a government loan of £3000 per mile to the railway. Maximum passenger rates are fixed.[5] Power is reserved to the government to assume the road at the expiration of twenty-one years, and on three months' notice, by the payment of a sum equal to twenty-five years' purchase of the average annual profits, calculated on the basis of the annual profits for the seven years next preceding. If the average rate of profits had fallen below 10 per cent. the determination of the price was to be arrived at by arbitration. Of the eighteen directors of the road nine were to be appointed by the government. The government appointees were not required to hold any qualification of shares. The railway was subject to the provisions of the general railway act. The second of these acts provided for the continuation of the railway from Quebec to Trois Pistoles, and, under certain conditions, from thence to the eastern boundary of the province. In this act the same provisions concerning directors and assumption

[1] Cf. Letter in the Montreal *Gazette*, December 23, 1875. [2] BRASSEY, *loc. cit.*

[3] Twenty-six persons were incorporated as the Grand Trunk Railway Company. Among these were the Hon. Peter McGill, George Etienne Cartier, L. H. Holton, D. L. McPherson, A. T. Galt, and H. F. Jackson, of London, England.

[4] *Statutes of Canada*, 1852, chaps. 37, 38 and 39.

[5] *2d.* for first class; 1½*d.* for second class; and *1d.* for third class. These are, of course, on a mileage basis.

appear as in the preceding act. The capital stock is placed at £100,000, but provision is made for increasing it to £1,000,000. The provincial grant of £3000 per mile was to apply on the section between Quebec and Trois Pistoles. No provision was made for money assistance to the eastern extension from this point. A provision for a grant of one million acres of land in aid of the enterprise appears. When the chartering act of the Grand Trunk was under consideration the Kingston and Montreal objected to this charter on the ground that it would interfere with the vested rights which had been created by granting a charter to it in the preceding year.[1] It was asserted that to commit the construction of the line to a Canadian company would be more to the interest of Canada than to place it in the hands of a foreign company managed by any association of speculators residing abroad, having no interest in the country beyond the punctual receipt of the largest dividends that could be wrung from it.[2] Notwithstanding these objections the third in the series of acts concerned with the chartering of the Grand Trunk provided that the charters of the Montreal and Kingston, and of the Kingston and Toronto were to be repealed; and the Grand Trunk was to be made responsible for all the expenses these companies had incurred.

The original provisions of the Guarantee Act have been cited; it remains to give an account of the changes made in the act in the period 1849–1852. It was soon found that the guarantee, on account of the wide range of railway enterprises to which it might be applied, was reacting prejudicially upon the credit of the country. The Canadian financial agents in London recommended that some limitation should be introduced.[3] This advice was followed. The act passed in 1851 to provide for the construction of a main trunk line contains some modifications. The provincial debt was not to be increased, except in so far as it was

[1] *Sessional Papers of Canada*, 1852–3. [2] *Ibid.*

[3] The agents were Baring Bros. & Co. and Glynn Mills & Co. See *First Report of the Standing Committee on Railroads and Telegraph Lines*, 1851; also POPE, *Life of Macdonald*, vol. i. pp. 105–109.

necessary to raise money for the construction of the main trunk line, and to afford the guarantee of the province to the bonds of the Great Western, the St. Lawrence and Atlantic, and the Ontario, Simcoe and Huron. The Great Western and the St. Lawrence and Atlantic were railways which would form part of the proposed trunk line in case the government should find it necessary to commit the construction and completion of the line into the hands of companies already chartered. These railways had been begun and in part constructed on the faith of the guarantee. While the Ontario, Simcoe and Huron did not form part of this proposed line it had been begun upon the faith of the guarantee; hence its inclusion in the act. An express provision was inserted that in the case of the lines that might form part of the main trunk line the guarantee was to extend to the main line alone. Nor was the road to be entitled to the benefits of the guarantee until it was approved by the Board of Railway Commissioners. A still more important change has yet to be considered. The guarantee of interest did not afford the rapid development desired; and so the government now permitted the extending of the guarantee to one half the principal as well as to the interest on one half the cost.[1] The bonds guaranteed were to be made payable at periods previously agreed upon; and they might be exchanged for provincial debentures. The government was to have the same security for the payment of the principal and interest of these bonds as in the case of the interest under the original guarantee act. This aid was intended to extend to the railways already mentioned to which the Guarantee Act was limited.[2] The modification of policy met with in the charter of the Grand Trunk, which limited the assistance to £3000 per mile was a step in the direction of husbanding the resources of the province.

In the endeavor to obtain a rapid development of the railway system the municipalities were expected to co-operate. An earlier recognition of the advantage gained by the municipalities from railway construction had been seen in the legislation passed

[1] Act of 1851 chartering a main trunk line, section 13.

[2] See *First Report of the Standing Committee on Railroads and Telegraphs*, 1851.

in 1837 in aid of the Toronto and Huron Railway;[1] if the railway defaulted in the interest payment on the sums granted to it the government might levy on the districts through which the railway passed, until sufficient was obtained to meet the interest. The Great Western petitioned for the enactment of an act so amending its charter that municipal corporations might be permitted to take stock in the company or otherwise aid it. An act was accordingly passed permitting municipalities to subscribe for any number of shares in the railway or to lend money to it, or to extend a guarantee on money borrowed by it. The money necessary for this might be raised either by taxation or borrowing. In order to take stock in the company or to lend to it, it was necessary to have the proposition accepted in a by-law approved by a majority of the electors. The head of a corporation subscribing £25,000 to a railway was to be *ex officio* a director of it.[2]

In the general railway act passed in 1851 provisions were contained permitting municipalities to take stock in or to guarantee moneys borrowed by railways. Here again the proposition to aid a railway had first to be approved of in a by-law accepted by a majority of the electors. This act provided that the head of a corporation subscribing £5000 to a railway was to be *ex officio* a director of it.[3] The legislation of the same year, which was intended to facilitate the construction of a main trunk line, contains a provision which, although it did not become operative, throws light on the part the municipalities were expected to take in railway construction. It was provided that if the road could not be constructed under an imperial guarantee it should be constructed at the joint expense of the province and the municipalities. The sums raised by the municipalities for this purpose were to be known as the "Railway Municipal Subscription Fund." Debentures might be raised by the province on the security of the moneys so subscribed.[4] If any municipality defaulted in its

[1] *Statutes of Upper Canada*, 1837, chap. 60.

[2] *Statutes of Canada*, 1850, chap. 29.

[3] *Ibid.*, 1851, chap. 51, section 18.

[4] *Ibid.*, 1851, chap. 73, section 7.

subscription the government had the power to direct the sheriff of the particular county to levy upon it.[1]

The municipalities, as has been seen, had exercised their powers to render aid to railways; but the lack of knowledge in the world market with reference to the financial condition of the local bodies kept their credit from being good.[2] The legislature thought there was no danger in permitting corporations to take stock in railways. There was a general impression that municipal investments in railway enterprise would ensure a return from the outset.[3] Some thought that the time would soon come when the interest on the local investments in railways would be sufficient to meet the expenses of government without having recourse to taxation. It was under such conditions that the final phase of Hinck's railway policy was put into force. The Municipal Loan Fund Act in which this was contained deserves close scrutiny not only because of the provisions contained but also because of its after effects.[4] The issuing of debentures on a consolidated loan fund, which would in reality represent a pooling of the resources of the municipalities, would, it was asserted, ensure that the credit of the debentures would stand higher. The fund so created was to be under the supervision of the provincial goverment. It was intended that the municipalities should be enabled to assist in the construction of public buildings, railroads, harbors, river improvements, etc. The municipalities were empowered either to take stock in or to lend money to railways.[5] The receiver general of the province was empowered to raise, through the issue of debentures secured on the Municipal Loan Fund, the money requisite for the improvement desired by any locality; as an alternative he might hand over to the treasurer

[1] *Ibid.*, section 6.

[2] Speech from the Throne, 1851, see *Annual Register*, 1852, p. 293.

[3] HINCKS, *op. cit.*, p. 201.

[4] *Statutes of Canada*, 1852, chap. 22, "An act to establish a Consolidated Municipal Loan Fund for Upper Canada."

[5] The proposed expenditure had first to be approved in a by-law which had received the sanction of the majority of the electors. The debentures issued were to run not less than five nor more than thirty years.

of the municipality the debentures so secured. The province laid stress on the fact that in acting in the matter it occupied merely the position of an agent.[1] The government, however, was in reality endeavoring to reflect the influence of its credit upon the municipal obligations issued under this act. The method of management also tended to confuse the province with the municipality. It was provided that the receiver general of the province might, in the discretion of the government, make advances to the fund to enable it to meet the charges on it. Each municipality which obtained money on the credit of the loan fund was required to make an annual interest payment to the receiver general equal to 8 per cent. of the sum issued to it; the difference between this and the amount necessary to meet the interest on the debentures was to form a sinking fund; this was to be invested by the receiver general on the credit of the Municipal Loan Fund. If the moneys at his disposal were insufficient to meet the interest on the debentures outstanding against the fund, he might meet the interest out of the sinking fund. When any municipality was behind in its payments it was to be charged interest; if it was in default more than three months the governor might authorize the sheriff of the county to levy. When a municipality had borrowed money under this act it was not lawful for it to incur any further indebtedness, without the approval of the government of the province, until all the debts incurred under this act had been wholly paid off.

II. THE AGE OF RAILWAY DEVELOPMENT.

During the period from 1849 to 1858, 1726 miles of railway were constructed in Canada. The conditions of unrest which for some time followed the rebellion of 1837 caused the English investor to regard Canadian investments as unsafe. After 1850 the tide turned the other way. The large immigration which had set in with the period beginning about 1847 had helped to develop the inland portions of the country. The bulk of this

[1] Each debenture bore on its face the statement that the province undertook to pay the principal and interest out of the moneys in the Municipal Loan Fund and that it assumed no other liability whatsoever.

increase of population settled in Upper Canada. In 1841 the population of Upper Canada had been, in round numbers, 465,000 while that of Lower Canada was 690,000. In 1851 the conditions were reversed, Upper Canada now having 952,000 while Lower Canada had 890,000. The beginnings of railway enterprise brought along with them new investments of capital which reacted on the tone of business. The good harvest of 1850 had also helped to effectively dissipate the gloomy anticipations of the signers of the Annexation Manifesto. The repeal of the navigation laws instead of driving trade away from Canada had attracted it; and the harbors of Montreal and Quebec were crowded with foreign shipping. In 1841 the total imports at Quebec amounted to £2,690,000; in 1851 they were £5,358,000.[1] The changed policy of England which gave Canada a freer hand in its commerce with the United States increased the imports from the United States from $4,200,000 in 1849 to $8,360,000 in 1851.[2]

At an earlier period, more especially in Lower Canada, charters had been issued without a due regard to continuity. In 1850 a process of consolidation of the scattered links began. The Montreal and Lachine and the Lake St. Louis and Province Line railways were united.[3] The Champlain and St. Lawrence was empowered to extend its road by taking over the powers which had been granted to the Montreal and Province Line Junction Railway to construct a railway from St. Johns, the terminus of the Champlain and St. Lawrence, to Rouse's Point.[4]

In 1850 charters were granted to five railways. In the period 1850–1 105 miles of railway were constructed.

In granting charters and in devising schemes whereby railway construction might be facilitated, Upper Canada was throughout this period pre-eminent. Whatever construction was

[1] Cf. a return issued from the office of the inspector general on October 22, 1859, covering the period 1841–1859.

[2] Cf. *House Executive Documents, 1863–4*, vol. ix. No. 32, p. 5.

[3] *Statutes of Canada*, 1850, chap. 112. [4] *Ibid.*, chap. 114.

undertaken in Lower Canada was more local in its nature. The only Lower Canadian projects aided under the Guarantee Act were the St. Lawrence and Atlantic Railway, which was intended to afford a connection with the seaboard of Maine, and the Richmond and Quebec Railway. It is to be noticed that both of these railways had the intention of obtaining a connection with the railway system of the United States. It was not until 1854 that the provisions of the Municipal Loan Fund were extended to Lower Canada. Those interested in railway projection in Lower Canada complained of the apathy existing. From time to time references to the enterprise shown by Upper Canada and the benefits which might be expected to follow the reform are to be found.[1] Although the people of Lower Canada were told that "the essence of a railway system is to increase its own traffic, adding 25 per cent. to the value of every farm within fifty miles of the track, doubling that of those near it and quadrupling that of those through which they pass,"[2] they moved on very slowly in the matter of railway construction, with the result that when a time of reverses came they were not so severely injured.

Meantime railway construction went on apace. In 1851 four charters were granted; and in 1852, fourteen. In the latter year forty-six miles of railway were constructed. At the same time there were 628 miles under construction and 1203 chartered.[3] There was a general condition of hopefulness in the province. Capital was being attracted to Canadian investments. Canadian credit was good. The 6 per cents were being quoted in London at 116. The total debt of Canada was $22,355,000; the revenue afforded a surplus of $900,000. Under the provisions of the Reciprocity Treaty of 1854 a great impetus to trade was given.[4]

[1] Cf. KEEFER, *The Philosophy of Railroads*, p. 36.

[2] *Ibid.*, pp. 15, 16. This pamphlet, which is very interesting reading throughout, was published in the interests of the St. Lawrence and Ottawa Grand Junction Railway. It will be found in the collection of Canadian railway pamphlets in the Parliamentary library.

[3] *Ibid.*, pp. 47.

[4] Cf. in this connection the data contained in HAYNES, *The Reciprocity Treaty of 1854*.

The prosperity of the time caused railway projectors, in laying their prospectuses before the English investor, to make estimates of profit which were attributable rather to the influence of imagination than to a reliance on the dictates of common sense. In 1853 it was estimated that the Grand Trunk would yield a return of 11½ per cent.[1] Such confidence was reposed in the success of this venture that when the first half of the stock was placed on the market it was subscribed for many times over, and quotations were made at 2 per cent. premium.[2]

For a period of about four years the province was in the very heyday of construction. Between 1852 and 1856 the railway mileage was increased by 1209 miles. Such was the enthusiasm for railway construction that Sir Allen McNab, who came into power as prime minister in the McNab-Morin ministry in 1854, said, in the course of his campaign preceding election, that his platform was railways. The capital brought into the country excited a speculative development. The promoter saw in the obtaining of charters a ready way to sudden wealth. In the endeavor to obtain special favors the integrity of the legislators was attacked. The modern devices of "lobbying" and all the illicit acts thereto pertaining were found in full force at this early time.[3] It was asserted that even some members of the government stood in a suspiciously close relationship to the railways. The name of Hincks was attacked; it was claimed that he had obtained wealth in an inexplicably rapid manner, and it was stated that £50,000 of Grand Trunk stock stood on the books of the company opposite the name of Hincks without any tangible equivalent therefor being apparent.[4] However it was clearly shown that the shares standing in his name on the books of the company were in

[1] See appendix to *Statements, Reports, and Accounts of The Grand Trunk Railway Company laid before the Legislative Assembly*, April 23, 1857, p. 14.

[2] TROUT, *Railways of Canada*, p. 74.

[3] For examples in this connection see *Eighty Years of Progress of British North America*, pp. 221-228.

[4] HOWE, *Letters and Speeches*, vol. ii. p. 440.

reality held by him in trust for future sale by the company in Canada.[1]

The Grand Trunk, which was begun in 1853, soon found itself in difficulties. The speculative development of the time had raised prices 30 and in some cases 50 per cent., and coupled with this came the stringency in the money market in London, caused by the prospects of European wars. Although the Grand Trunk stock had at first stood high, it soon fell. As early as the autumn of 1854 the company found it necessary to ask the government for aid.[2] It was urged by the railway that one reason for the granting of government aid was that when the stock was being disposed of in London, £800,000 of it was set aside, on the advice of some Canadian gentlemen then in London, with a view to its being placed for subscription in Canada. It was considered that it would be advantageous to attract Canadian interest to the enterprise. The stock which was thus set aside could have been disposed of at the time in London. There was not the expected demand for the stock in Canada; and owing to the disturbed condition of the London money market it could not be disposed of in London.[3] The government decided in 1855 to loan the railway £900,000. This was to be secured by a lien on the consolidated system of the Grand Trunk.[4]

Almost as soon as the Grand Trunk was under way, the directors of the company endeavored to incorporate with their enterprise other railways, already incorporated or in course of construction, which would benefit the main line by making surrounding country subsidiary to it. The management also favored

[1] See evidence of Sir Cusack P. Roney before the special committee appointed in 1857 to inquire and report with reference to the condition, management and prospects of the Grand Trunk Railway Company, p. 34. A condensed statement of the findings of this committee in so far as they affected Hincks will be found in HINCKS, *op. cit.*, pp. 344-351.

[2] *Grand Trunk Railway Report*, Directors' Report, p. 7.

[3] *Scrap Book Debates*, 1855, p. 79.

[4] The resolutions introducing the loan measure were reported from the committee of the Whole House on May 4, 1855. The legislation will be found in *Statutes of Canada*, 1855, chap. 174.

a western extension of the system with a view to obtaining a participation in the transportation of the breadstuffs of the western states. In April of 1853 an agreement had been entered into between the Grand Trunk, the Quebec and Richmond, the St. Lawrence and Atlantic, and the Toronto and Guelph, and Grand Junction Railway. The joint line was to be known as the Grand Trunk Railway of Canada.[1] The guarantee to these lines was transferred to the joint company. The total amount of the guarantee for which the province was liable to the joint line was limited to £2,211,500.

One of the roads mentioned above, the Toronto and Guelph, brings up the interesting question of the relation of the Grand Trunk to the Great Western. In the charter of 1851 providing for the construction of a main trunk line it had been stated that, in case it was found impossible to construct the road as a government enterprise, it should be built by the railway companies already incorporated which would form a through line. At the same time the Great Western was mentioned as being one of these companies, and it was also stated that it was to form a portion of the main line. In 1851 a charter had been granted to the Toronto and Guelph Railway.[2] One year later the Grand Trunk was incorporated, and in the same year a charter was granted to the Toronto and Guelph Railway authorizing it to construct an extension to Sarnia.[3] The granting of this charter was at once opposed by the Great Western on the ground that it interfered with its vested rights. The committee on railways declared that it would be unjust and impolitic to grant the charter. It was held that the business existing would not be more than sufficient to maintain a single line, and that it would not be wise to do anything which would militate against the business of the company since the province had made advances to it to the extent of £750,000.[4] The company claimed that it

[1] *Statutes of Canada*, 1852, chap. 33.

[2] *Statutes of Canada*, 1851, chap. 148. The road had originally been chartered as the Toronto and Goderich, but the charter had lapsed.

[3] *Statutes of Canada*, 1852, chap. 4. [4] *Sessional Papers of Canada*, 1868, No. 73.

had been induced to invest 22 million dollars in railway construction on the faith of guarantees which gave the right to assume that it would be left in possession of western Canada. Notwithstanding this protest the charter was granted. Work on the Great Western was continued, and in 1854 the line was opened. When the act was passed enabling the Grand Trunk to obtain its western extension it was seen that the government had definitely ranged itself on the side of the Grand Trunk.

The Grand Trunk still found it difficult to obtain the money necessary to complete the enterprise, and so in 1856 an application was made to the government to permit the issue of £2,000,000 of preferential bonds and at the same time postpone the priority of lien created in favor of the province on account of the aid granted by it to the railway. This privilege was granted the company.[1] The money raised by the sale of the bonds was to be deposited with the Canadian financial agents in England; it was to be released to the company on satisfactory evidence of progress in the works to which the expenditure of the money was specifically limited by the enabling act.[2] The province agreed to meet, for a period of five years, the interest on the bonds already advanced to the railway. It was expected that the works designated in the act would be completed within this period and the through traffic developed. The province was to receive share capital of the company in return for the advances so made to it. Having obtained such aid the railway was able to continue its work of construction and the main line was opened in October of 1856; the extension westward to Sarnia was completed in November 1859; while the extension eastward as far as Riviere du Loup was completed in July 1860.

[1] *Statutes of Canada*, 1856, chap. 3.

[2] The expenditures were to be as follows:

On the railway from St. Marys to London and Sarnia	£ 450,000
On the railway from St. Thomas to Riviere du Loup	525,000
For the construction of the Victoria bridge	800.000
For the railway from Three Rivers to Arthabaska	125,000
To enable the company to aid the Port Hope and Cobourg and Prescott railways as subsidiary lines	100,000
	£2,000,000

During the period under consideration eighteen railways in all were constructed. The Grand Trunk and the Great Western have already been referred to; the others may now be passed in brief review. In 1850 the railway from the village of Industry, in the township of Rawdon, to the River St. Lawrence was completed; in 1851 the Montreal and Champlain was extended. In 1853 the St. Lawrence and Atlantic from Montreal towards Portland was constructed. In 1854 five railways were built; the Carillon and Grenville, which was to form a section of a road between Montreal and Bytown, now Ottawa, was intended to circumvent the Sault rapids of the Ottawa River; the Erie and Ontario connected Lakes Erie and Ontario; the Cobourg, Peterboro and Marmora was constructed to open up the fertile region back from Lake Ontario towards Rice Lake; the Richmond and Quebec opened up the eastern townships of Lower Canada, a thriving agricultural section which had originally been settled by emigrants from the neighboring republic; the Ottawa and Prescott connected the Ottawa River with the St. Lawrence. In 1855 the Northern Railway was completed.[1] A section of this from Toronto to Bradford near Lake Simcoe, had been opened in June 1853; on this occasion the first locomotive used in Upper Canada was employed.[2] This railway, extending in a northwesterly direction from Toronto towards Lake Simcoe and Georgian Bay, afforded a readier means of access to valuable agricultural land. In 1856 the London and Port Stanley, which afforded a communication with Lake Erie, was constructed. In 1857 the Port Hope, Lindsay and Beaverton, which was intended to aid in the development of the back country in the neighborhood of the Peterboro lakes, was opened. In the same year the Montreal and Lachine, which had been begun in 1846, was completed. In 1859 the Welland Railway was completed. In 1860 the Brockville and Ottawa, the Stanstead, Sheffield and Chambly, and the Buffalo and Lake Huron were completed.[3]

[1] This railway, originally known as the Ontario, Simcoe and Huron, had its name changed to the Northern Railway in 1858, chap. 117 of the *Statutes* of that year.

[2] Cf. *Eighty Years of Progress*, p. 192.

[3] Cf. in connection with the foregoing summary, *Sessional Papers of Canada*, 1868, No. 73; also TROUT, *op. cit. passim.*

Some minor phases of policy were developed in the special railway acts of this period. A railway accident, on the Great Western, at the Desjardins canal, in 1857, in which seventy lives were lost, drew attention to the fact that there was a lack of sufficient supervision of the railways in the interest of the safety of passengers. The result of this was the law "for the better prevention of accidents."[1]

A review of the special acts of this time shows a decided trend towards amalgamation, either of roads in actual operation or of charters. In 1851 the Montreal and Kingston was empowered to purchase the Montreal and Lachine.[2] In the following year the tendency towards consolidation received an important impetus. When the Grand Trunk was chartered an act was passed "to empower any railway whose railway forms part of the main trunk railway throughout this province, to unite with any other such company or to purchase the property and rights of such company. . . . ."[3] A later statute of the same year, which incorporated the Montreal and New York stated that the Montreal and Lachine Railway and the Lake St. Louis and Province Line Railway formed a portion of this road.[4] The same tendency was manifested in succeeding years. In 1854, as has already been noted, a consolidation of the Grand Trunk interests took place. The somewhat ambitious project of constructing a line of railway from Lake Huron to Quebec was brought before the public in 1856. To form this line the North Shore Railway, the Vaudreuil, Montreal and Bytown, Bytown and Pembroke, and the Brockville and Ottawa, railways which had already been incorporated, were to be consolidated under the name of the Lake Huron, Ottawa and Quebec Junction Railway Company.[5]

Section nine of the railway act had included in the powers of the railway power to borrow money at 8 per cent. In the

[1] *Statutes of Canada*, 1857, chap. 12.

[2] *Statutes of Canada*, 1851, chap. 143.

[3] *Statutes of Canada*, 1852, chap. 39.

[4] *Ibid.*, chap. 46.

[5] *Statutes of Canada*, 1856, chap. 112. Of these roads the Brockville and Ottawa was completed in 1860; the others dragged on for years.

practice of the charters some differences appear. The Industry road was permitted to borrow money as it deemed expedient in sums not exceeding £8000 at any one time at 6 per cent.[1] The Quebec and Richmond, chartered in the same year, permits the borrowing of not more than £150,000, at any one time, at 6 per cent. The Great Western was allowed to borrow to an amount not exceeding one half its capital.[2] At a later time the Massawippi Valley Railway was permitted to borrow to an amount not exceeding its paid up capital.[3] In the act reviving the Port Whitby and Lake Huron Railway there is a more marked departure.[4] The borrowing powers are bound down by a fourfold provision: (1) the bonded debt is never to exceed the paid-up stock; (2) a sinking fund is to be provided for the redemption of the bonded indebtedness; (3) the construction account of the company and all the other charges against capital are to be closed for each division of the road within twelve months after its opening; (4) all railway bonds of the company are to be convertible at par into stock of the company at the option of the holder of the bonds.

Before 1851 there had been a lack of uniformity with reference to the conditions attached to state purchase. An act of 1850 provides that the railway may be purchased by the government on giving three months' notice, and paying in the paid up capital together with interest thereon.[5] Another act of the same year provides that the purchase shall be effected by giving three months' notice and paying over a sum equal to twenty-five years purchase of the average annual dividends for the seven years last past.[6] The general railway act was silent on this matter and in the special acts there is a lack of uniformity. Some charters contain provisions for assumption on fulfillment of defined terms, others do not. Even where provisions for assumption are contained the methods vary. In 1851 the provision favored for this purpose was that six months' notice should

[1] *Statutes of Canada*, 1857, chap. 142.

[2] *Statutes of Canada*, 1858, chap. 116.

[3] *Statutes of Canada*, 1862, chap. 61.

[4] *Statutes of Canada*, 1857, chap. 142.

[5] *Statutes of 1859*, chap. 115.

[6] *Ibid.*, chap. 117.

be given, and the paid up capital plus the outstanding liabilities plus 6 per cent. thereon, and an additional sum of 10 per cent. on the total amount less the liabilities should be paid. In 1852 while one charter provides that the road might be purchased at the close of twenty-one years on the payment of twenty years purchase of the average annual dividends for the seven years last past,[1] another requires simply three months' notice, the government being then empowered to purchase on the same terms as are indicated in the preceding clause;[2] and a third requires that four months' notice shall be given and that thereafter the government might purchase by paying over the capital expended plus the liabilities and 6 per cent. on this amount together with 10 per cent on the sum of these, the government being liable for all further liabilities of the railway.[3] In 1853 the method varied between requiring three or four months' notice, the government being allowed to purchase on the conditions indicated in the last clause of the preceding sentence,[4] and a provision that when three months' notice was given the road might be purchased on twenty years purchase of the average annual profits for the seven years last preceding.[5]

The provision in the Grand Trunk charter for government directors has already been adverted to. The charter of the Cataraqui and Péterboro gives the government power to appoint one director.[6]

A somewhat unique provision had been contained in the earlier charter of the Ontario, Simcoe and Huron Railway which permitted the company to raise funds for the construction of the road by means of allotments by chance, and distributions of prizes. This was repealed in 1852.[7]

While the government had at an early date limited the amount of financial indebtedness it was willing to incur in order to aid railway enterprise, it did not, as might have been anticipated, develop a comprehensive land subsidy policy. It was

[1] Chap. 37 of the *Statutes* of this year. [2] *Ibid.*, chap. 38. [3] *Ibid.*, chap. 43.

[4] Cf. *Statutes of Canada*, 1858, chaps. 103, 135, 137.

[5] *Ibid.*, cha 100. [6] *Ibid.*, chap. 135. [7] *Statutes of Canada*, 1852, chap. 51.

probably on account of the uncertain value of the public lands that the government did not develop a land subsidy policy. It had been suggested by Earl Grey that some portion of the public lands should be appropriated towards the construction of the Halifax and Quebec Railway.[1] An offer had indeed been made that if the Grand Trunk were extended eastward from Trois Pistoles, a grant of one million acres would be made. Towards the end of this period a further recourse was made to this policy by the grant of four million acres to the Lake Huron, Ottawa and Quebec Junction Railway,[2] and a further grant of 1.5 million acres was made to the St. Maurice Railway and Navigation Company.[3]

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[1] *Major Robinson's Report*, p. 4.

[2] *Statutes of Canada*, 1856, chap. 112.

[3] *Statutes of Canada*, 1857, chap. 149.